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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/700,131	11/03/2003	Ellyne Elizabeth Prodoehl	9408	3708

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
WINTON HILL BUSINESS CENTER - BOX 161
6110 CENTER HILL AVENUE
CINCINNATI, OH 45224

EXAMINER

LONEY, DONALD J

ART UNIT	PAPER NUMBER
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1772

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/04/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/700,131

Applicant(s)

PRODOEHL, ELLYNE ELIZABETH

Examiner

Donald Loney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 January 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-24 is/are pending in the application.
- 4a) Of the above claim(s) 12-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/09/07.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 15-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graff (6461720) in view of McNeil et al (6129972).

Graff teaches a paper product comprising a plurality of raised areas 22 that have connecting elements 24 there between that are partially recessed (i.e. smaller in height) from the raised protrusions. Refer to figures 1, 3 and 4. The height of the protrusions is 1.3mm (i.e. 1300µm). Refer to column 4, lines 3-10. This is within the applicant's claimed range of 300-5000µm, or at least 650µm per claim 19. Graff does fail to specifically disclose the first sub pattern as being first sets of parallel rows and second set of parallel rows, wherein the first set is not parallel to the second set. Graff does disclose the pattern can be of straight lines and at least some of the portions are at least partly

mutually parallel (column 2, lines 1-7). Graff also discloses that the pattern can be of a wide variety of patterns (column 4, lines 42-44).

McNeil et al discloses that patterns of two sets of parallel rows, wherein one set is not parallel to the other is known to be embossed in paper articles. Refer to figures 3, 4A, 4B and 4C. In figure 3 the two sets of parallel rows can be considered either the horizontal and vertical ones or the diagonal ones (i.e. the ones denoted by the lines that make an X). The same applies to figures 4A-4C, looking at horizontal and vertical lines.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to Graff to form the first sub pattern of two sets of parallel lines wherein one set is not parallel to the other, as taught by McNeil et al, in order to form a pattern of two sets of parallel rows, wherein one set is not parallel to the other motivated by the fact the primary reference teaches straight line patterns can be used and also a variety of patterns can form therein. Per claim 16, as stated above, the second sub pattern can be no pattern at all. Not until claims 17 and 18 is the second sub pattern positively recited as being protrusions, however, it would be obvious to one of ordinary skill in the art to form another pattern motivated by the fact Graff discloses more than one pattern can be formed as shown in figure 1. Regarding claim 20 the pattern is repeating since it of a plurality of straight lines. Regarding claims 22 and 23, the products are embossed as disclosed by the references. Regarding claim 24, since the combination of the references teaches the structure as recited the optical properties would be inherent therefrom. New claims 15-23 correspond to previous claims 9, 2-7, 10 and 11, respectively, submitted July 19, 2006.

Response to Arguments

Applicant's arguments filed January 9, 2007 have been fully considered but they are not persuasive. The applicant argues claim 15, as amended, recites "the ends of the connecting elements are the same height as the raised protrusions". This is not commensurate with the claims since claim 15 fails to recite this. Claim 15 does recite that the each connecting element ends at the raised protrusion. This may be what the applicant is referring to as being the same height? None the less, the connecting portion 24 (including the vertical side sections) in Graff, which connects the protrusions 22 also ends at the protrusion as seen in figure 4 and would be at the same height as the protrusion at this section.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of


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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Loney whose telephone number is (571) 272-1493. The examiner can normally be reached on Mon, Tues, Thurs and Fri. 8AM-4PM, flex schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena Dye can be reached on 571 272-3186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Donald Loney
Primary Examiner
Art Unit 1772

DJL;D.loney
03/29/07